UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PAUL HOCH, Plaintiff, v. CENTRAL INTELLIGENCE AGENCY, Defendant.	)	Civil Action No. 82-0754

SECOND AFFIDAVIT OF HAROLD WEISBERG

1. I identify myself and state my experience and subject-matter expertise in my affidavit of August 29, 1984.

2. When I prepared that affidavit I assumed that Mr. Lesar might have immediate need for it and therefore rushed. My searches, which also were limited by serious complications following arterial surgery, consisted of examining several readily accessible files. These searches and the drafting of the affidavit itself required only about four hours of my time. Any such searches by the CIA ought certainly have been more complete and ought not have required much time. Within my experience, all agencies have the kind of information I included in that affidavit immediately retrievable to meet their responsibilities and to be able to defend themselves from criticism.

3. After reading the CIA's submissions of September 10, which I received September 14, consisting of its Motion to Amend its Motion for Clarification with attached Memorandum of Points and Authorities and the declarations of that date by the CIA's Louis J. Dube, with a copy of the blind memorandum, "What Could Castro Have Known?" attached and that of the CIA's Lee S. Strickland, with the attached

20.

October 24, 1975, affidavits of the CIA's Eloise Page and E. H. Knoche, I believe that the CIA expended much more time in their preparation and the preliminaries to their preparation than would have been required by making the search not attested to so that the CIA could have determined and reported to this Court what it avoids, whether or not the information in question had been disclosed officially earlier.

4. In the brief time I devoted to preparing my earlier affidavit I did not try to recall all prior official disclosures of the information contained in CIA Document 1648-152-C. After reading the CIA's current submissions, which avoid the question of prior official disclosure and instead represent that there had been none, I state that such prior and official disclosures were made - by the CIA itself, other than in the prior disclosure of the record in question in the Borosage case; by the Department of Justice; by the FBI; by two Presidential commissions; and at the very least by two Congressional committees, the Senate Intelligence Committee (the Church committee) and the House Select Committee on Assassinations. In addition, after his term as President, Lyndon B. Johnson stated publicly that the CIA was running what he termed a Murder Incorporated in the Caribbean. All the information in my prior affidavit from public sources also was disclosed officially. For example, the leaked copy of pages of the CIA's Inspector General's report (Exhibit 7) had earlier been processed for disclosure, as examination of it discloses, and were published officially, with the CIA's assent, by the House assassinations committee.

5. Based on my knowledge and experience I believe that it is a) beyond question that the CIA was well aware of this before Dube executed his July 22, 1982, affidavit; b) beyond question that Dube and the other CIA officials involved in the preparation and filing of CIA's attestations could have determined this easily and rapidly; and c) deliberately avoided confirming what all should have

known, that all of what they swore to this Court had to be withheld had already been disclosed officially.

6. As I state in my prior affidavit, I have prior professional experience as an intelligence officer. An intelligence source is a source of information. An intelligence method is a means by which intelligence information is obtained. Political assassination by an agency of government is neither a source of intelligence information nor a means of gathering such information. Yet the thrust, indeed the specific and sworn-to representations of the CIA, is that its plots to assassinate foreign leaders are both sources of intelligence information and a method for obtaining intelligence information. For example, Strickland attests (in Paragraph 3) that the document in question, which is about the CIA's plots to assassinate Fidel Castro, would disclose "intelligence sources and methods." This and the other similar formulations are CIA boilerplate with which I have considerable prior experience, and in this instance it is not true. Assassination is included in the CIA's euphemism "operations," the title of the directorate of which Dube is an official. (The CIA earlier employed another euphemism, "plans," to describe its "operations" function, commonly referred to as "dirty tricks.")

7. From his deposition testimony of December 21, 1983, in NSA v. CIA (transcript, page 4), Dube is an experienced dirty-tricks operator. His experience with the CIA in this area began in 1952. It includes four different overseas tours as an Operations Officer, plus "repeated" periods of temporary overseas duty of this description; service as an "Area Desk Chief, as Deputy Branch Chief, as a Branch Chief, a Deputy Group Chief, and as Group Chief," all those positions within the "Directorate of Operations." From his own account of personal experience and personal knowledge, Dube knows very well how such agencies function and thus he had knowledge contrary to what is attested to in the current CIA submissions, quoted below, including his own attestations.

8. Attached to the Strickland declaration is the October 24, 1975, affidavit of Ms. Eloise Page in the Borosage case. She, unlike Dube, states it is based upon personal knowledge only. The description of the document in question in the Page affidavit is that it would "reveal the identities of intelligence sources" and "would impair their continued ability to provide foreign intelligence" (Paragraph 5). At least three of the principals in the CIA document in question were assassins, not intelligence gatherers, and two of them, Sam "Momo" Giancana and John Rosselli, if they had ever served as other than assassination conspirators, their "ability" had been "at the very least impaired" because they, too, were assassinated.

9. Under "Description" in the Page affidavit this document in question is described as "revealing" and "identifying" what is described as "intelligence sources." Disclosure allegedly would "reveal methods of intelligence collection and the conduct of intelligence operations." Aside from the fact that assassination is not an intelligence method or source, there was nothing to "reveal" because, as is detailed at length in my prior affidavit, all that was officially disclosed earlier in the Borosage case and even more fully - and officially - disclosed prior to the execution of any of CIA's attestations in this litigation. There was, in short, nothing at all that could be "disclosed" by the time of these CIA attestations. This includes the fact that the CIA had numerous sources inside the anti-Castro Cuban community in this country, which also had been disclosed officially. And while none is identified, had there been any such identification, it could have been withheld from the described record and did not require withholding in toto.

10. Although in his September 10 declaration Dube is careful to state that all he attests to is not of personal knowledge ("upon information made available to me in my official capacity"), he does claim to have made "an additional personal review of document 1648-452-C" and that, based on this personal review, he still

attests that "this document properly would be withheld in its entirety pursuant to FOIA exemptions b(1) or b(3)" because "the intelligence source or method would be revealed to the public as a consequence of the disclosure of the discreet information at issue." (See Paragraph 6) He not only attests still again that political assassination is intelligence gathering and a method of gathering it, he also pretends that "in its entirety" none of what he withheld was "known to the public" whereas all of it had been extensively publicized, internationally and officially. Dube does not identify what he describes as "the discreet information at issue." Neither known sources nor known political assassinations meets the dictionary definition of "discreet."

11. It is apparent that if by any chance Dube and Strickland, both CIA officials, were entirely unaware of the fact that all of what the CIA had withheld under its boilerplated claims had in fact been the subject of prior official disclosure and extensive prior international scandal, they would have learned this readily if they had made even the most perfunctory search before attesting to what is not true to this Court. The indications in their attestations are that they were aware and skirt around this knowledge and made no search at all.

12. Dube, in fact, confesses that he did not process the document in question to comply with Hoch's request but acted on the prior and outdated affidavits, executed in 1975, by Page and Knoche (Paragraph 3). It is not possible that Dube could justify his position in the CIA without being aware of the extensive - and official - disclosures by a number of official bodies, referred to in Paragraph 4 above. The CIA affiants, in fact, refer to two of them.

13. Instead of searching to inform the Court fully and honestly, albeit belatedly, Dube instead prepares a defense of having sworn falsely to this Court that what was public was secret (Paragraph 6). He here represents that there is

no fact on whch to proceed and thus he must make "an assessment of the probability that the intelligence source or method would be revealed to the public as a consequence of disclosure." (His emphasis) In attempting further to justify his false swearing he claims that the decision to withhold "must be committed to experienced senior intelligence officers," himself, rather than those he describes incorrectly as "others who lack the training, experience and current intelligence knowledge." It is in fact his underlings, those who specialize, who without possibility of doubt knew precisely what had been placed in the public domain long before Dube swore to what is not true in this litigation.

14. In Paragraph 7 above I refer to Dube's deposition testimony in NSA v CIA. There Dube testified to the opposite of what he attested to September 10. On deposition he disclosed that he knows better and other than he now attests as quoted above from his Paragraph 6. But in fairness to him I also quote his evasion in his Paragraph 6, where instead of assuring this Court that he, personally, determined that the information he withheld ("based on the fact that this document wholly concerns named intelligence sources and specific intelligence methods") was in fact properly classified undisclosed and withheld, he instead refers to it as "potentially classifiable data." (Emphasis added) And he at no point in his declaration attests to any search by him or anyone else to determine whether the information he withheld as secret had been disclosed officially. He resorts to an evasion instead. I address it below. (See Paragraphs 25ff.) On the question of search, which is required for any such determination and attestation, he was asked on deposition about searching: "Did you personally oversee the search there?" He replied, "No. We have a branch and the individuals are trained there and they retrieve the documents. They put it in the computer and they retrieve index cards and make copies of them ... they they pull those references ..." (Emphasis added, transcript, page 14)

15. Asked (page 34), "Does the Agency have the ability to ascertain whether any particular requested documents had been previously released?" Dube testified (Pages 34-5) "that IPD has a system now where all FOIA material is entered into that system in the form that it is released so if another individual came in requesting the same files, IPD will send them this and would send it right then and there wouldn't be a second search." He added that this check is by subject matter.

16. Instead of Dube, the boss, having to make a "subjective" decision "and not others" who allegedly "lack the training, experience and current intelligence knowledge" (quoted from his Paragraph 6), on deposition Dube testified (Page 38) that recommendations came from below to him, from "the senior review officer that reviews the case. We put an individual or a team (on) and first of all they read all of the documents in the case, go over what is involved ... and then these documents are brought to their boss, who is a Branch Chief, and they went through the Group Chief, and he reviewed them, and then it finally comes to me ..."

17. In the NSA case, he testified they used in this an employee who "was involved with the oepration itself." (Page 41)

18. With regard to what is disclosed by legislative bodies, Ms. Molly Tasker, of the CIA's General Counsel's - Strickland's own - office, stated that "there is, indeed, a log" of what is provided by the CIA. (Page 96)

19. From Dube's own testimony it is apparent that the alleged "subjective" determination is at the least extraordinary and entirely unnecessary; that the CIA has a regular machinery for determining fact and prior disclosure, under FOIA and to legislative bodies; that rather than having ignorant and incompetent underlings the CIA in fact has trained and skilled employees who locate and understand what has been disclosed; and, as is commonplace, when it has

employees who have personal knowledge and experience available, they are used by it in processing FOIA requests. All of this is Dube's testimony of nine months before he prepared and signed his September 10 declaration in which he represents the opposite.

20. With regard to the foregoing, what is avoided throughout these CIA submissions is any addressing of what was public domain officially at the time of withholding from Hoch in 1982. I believe that if an old man, in poor health and with seriously impaired capabilities, without the information and other extensive facilities and employees of the CIA, could determine this in a matter of minutes, the CIA, with all its information and facilities and skilled and informed employees, with indices and logs and specially filed copies of what had been disclosed, would have avoided this only by design because there is no question but that the information in question was officially disclosed before Dube executed his July 22, 1982, affidavit and because there is no CIA attestation to following its normal FOIA practice, as Dube himself testified to it, assisted by Ms. Tasker.

21. Dube also is not truthful at this point (Paragraph 6) in referring to the unnamed Rosselli, Trafficante and Giancana as "named intelligence sources" (emphasis added). He there also refers to assassinating Castro as "intelligence methods."

22. This kind of statement is common CIA FOIA practice in my experience with its boilerplated allegations, conclusory statements and generalities that not infrequently plaintiffs and the courts cannot confront because of what the CIA withholds. These boilerplated generalities are presented as specifics and as relevant when they are neither. In her affidavit, for example, Ms. Page states, allegedly of "personal knowledge" (Paragraph 1), that disclosure "would result in exceptionally grave damage to the national security because to officially

acknowledge these plans would disrupt foreign relations vitally affecting the national security." (Paragraph 3) The plain and simple truth is that the United States had no relations with Cuba to "disrupt." Those relations were ended formally in the last days of the Eisenhower administration, two and a half decades ago. Moreover, and this gets to another persisting CIA false pretense, contrary to what she states these plans have been officially acknowledged.

23. None of the CIA's submissions reflect any effort at any time to determine whether or not th is information had been disclosed officially, save for the diversion to which these new submissions are keyed, which I address below. Strickland (in Paragraph 4) suggests that there was undescribed "legislative disclosures" over the CIA's objections: "In the light of legislative disclosures which were without the full concurrence of this Agency, Ms. Page, with the concurrence of the Director of Central Intelligence, determined that ... certain sections of certain documents provided to the Committee would be disclosed to the plaintiff." Even this fails to state whether, "in the light of legislative disclosure," any effort was made by Ms. Page or others in the CIA to determine whether any of the information in question is included in those official disclosures. The fact is that if Ms. Page was familiar enough with the disclosures of the Church committee to perform this assigned duty - and if she were not, certainly others in the CIA were - then she and the CIA had to know that withholding this document in its entirety was not justified under the exemptions claimed because of those official disclosures alone.

24. While it might be expected that official disclosures of the CIA's plots to assassinate the heads of foreign states "were without the full concurrence of this Agency," which plotted those assassination attempts, the fact is that the CIA did agree to those disclosures. This is not only the usual arrangement with

the Congress, it is stated specifically in that committee's published volumes. The one of its many published volumes that I cited in my previous affidavit begins by stateing that it " has been reviewed and declassified by the appropriate executive agencies."

25. These CIA submissions make no reference to any other legislative disclosures, and there were, to its knowledge and with its agreement, other such legislative disclosures. One of them includes the pertinent report of the CIA's own Inspector General, pages of which are attached to my previous affidavit as Exhibit 7. These submissions make no reference to the other official disclosures prior to the Dube affidavit of July 22, 1982. The CIA itself made and/or authorized them. Examples of them also are included in and attached to my previous affidavit.

26. Dube's explanation of his having sworn falsely to this Court is based upon a fiction and a claim to ignorance. He represents that once a document is classified, it remains forever classified and need not be reviewed under FOIA, the ~~thought~~ thrust of his Paragraph 3. His claim to ignorance (Paragraph 4) did not deter his making his oath. Conspicuously, he does not claim to have made any effort to determine whether there had been any "prior release" of this document or any effort to determine whether, at the time he executed his affirmation, it then was releasable. He states instead that "neither I nor my subordinate officers were aware of the prior release." In itself this also is a tricky formulation because there was more than one prior release and because of the special meaning of "officers" to the CIA. It is obvious that if Dube had conformed to the practice to which he personally attested on deposition in the NSA case quoted above he could not have helped knowing of all the prior official disclosures. As he testified, that work is not done by "officers" in the CIA but by clerks, hence

his tricky formulation. But with regard even to his tricky formulation, it is entirely beyond belief that no Cuban affairs "officer" in Dube's own dirty-tricks department and others in the CIA could have been without knowledge of what had been disclosed officially.

27. Dube also does not represent that any subject-matter expert examined the record in question to determine whether it could be released to Hoch in its entirety or with redactions. Instead, he attests to the utterly irrelevant to explain his false swearing in his affidavit. His irrelevancy is his claim that the JFK assassination records the CIA had disclosed had not been fed into the computer as of the date of his affidavit, July 22, 1982. This is his sole basis for explaining away his false swearing and even then he is not truthful: "Inasmuch as our routine verification procedures appeared to be unavailable (i.e., the belief that this record had not been computerized because it is allegedly a JFK assassination record), in the instant action this officer and I relied on the imperfect substitute of institutional knowledge."

28. Dube knew very well that the record in question is not a JFK assassination record. It is, first of all, a Rockefeller (Presidential) Commission record, according to the CIA's own submissions, allegedly prepared as a basis for its decision-making and thus allegedly also "predecisional." It is an assassination-plots record, a Castro record, a mafia record, an AMLASH (Cubela) record, a Trafficante, a Roselli, and a Giancana record. Dube does not state that what he refers to as the only "routine verification procedures" were "unavailable" for checking under its proper titling.

29. Moreover, as Dube knew and attested in the NSA case, also quoted above, he knew of other "verification procedures" to which he testified and he knew that he had under his personnel other than this unnamed "officer" of

"imperfect substitute" specialty who were familier with the indices, retrieved the index cards and records, and his explanation of his false swearing makes no reference to any effort to use the standard procedures and regularly assigned personnel instead of resorting to what he himself describes as "the imperfect substitute."

30. Perhaps Dube has his own definition of "institutional knowledge," but it is beyond question that within the institution of the CIA and within his own component the truthful "institutional knowledge" did exist, and it is beyond question that not alone from his 30 years of personal experience but from his precise knowledge of the standard procedures to which he testified in the NSA case, Dube was well aware of how to obtain the recorded "institutional knowledge" if, which does not appear to be the case, he and his unnamed "officer" were so entirely ignorant of what had been so publicly and so officially embarrassing to the CIA and his component, exposure of their plots to assassinate foreign leaders, particularly Castro.

31. Nor does Dube mention having consulted at all with the CIA's legislative liaison personnel or the existing IPD copies of what had been disclosed under FOIA, of which he knew and to which he also testified in the NSA case.

32. Losing himself in the course of seeking to explain his false swearing away with irrelevancies, digression and diversion, Dube thereby managed to disclose additional proof of what I have attested to in the past, including before this Court in the late 1970s, that the CIA has a policy of stonewalling and creating false costs for all parties in FOIA requests that can in anyway be embarrassing to it, and that it ignores such requests until suit is filed and then stonewalls the litigation and files untruthful, misleading and deceptive information, often boilerplate, with the courts. It happens that I have before

the CIA a number of FOIA requests for JFK assassination information going back almost a decade. It also happens that others have also made such requests and that they were able to file suit when I was ill and not able to, that records were disclosed to them that are within my requests, and copies were not provided to me. As Dube testified in NSA, the CIA, supposedly, without additional search, provides copies to other requesters after initial release. This has not happened with me and, in fact, for about a year I have not been able to get the CIA to tell me even the status of those requests. Now, in the midst of his self-justification, Dube attests that "until approximately a year ago, documents responsive to FOIA requests concerning President Kennedy's (JFK) assassination were maintained separately." Thus, to comply with my requests and with other requests, the CIA did not even have to make a search. Those records, from what has been disclosed earlier about them, were segregated and processed for Congressional committees. (Thus Exhibit 7 to my previous affidavit has excisions made by the CIA in it.) Yet even when it had already done most of the work, the CIA steadfastly refused to comply with my FOIA requests and those of other requesters.

33. It is my experience that in the CIA's campaign for exemption from FOIA, of which the untruthfulness in which it is now caught up is typical, there is nothing it will not utter, nothing it will not swear to in order to frustrate disclosure and the Act and make use of it burdensome, time-consuming and expensive to all parties. Its most recent device with me, after I caught it in a succession of lies in its refusal to inform me of the status of my requests relating to which Dube has attested all relevant records had for long been segregated, its last claim is that those records are now destroyed because it destroys records of FOIA requests with which it has not complied after two years. At the same time the CIA, seeking FOIA exemption, was testifying to the

Congress that its backlog was up to three years. Thus it actually states that it destroys records of requests before they reached their position in its backlog. (I attest to appeals of noncompliance with a request of 1971 for which the CIA requested more time and has not yet acted on.)

34. With further regard to the CIA's actual FOIA record relating to requesters interested in the assassination of President Kennedy and its investigations, one of the other requesters to whom I refer above is the plaintiff in this instant cause, Dr. Paul Hoch. He, like the rest of us, believed what it wrote him in 1977, that its review of those now admittedly segregated JFK assassination records "will continue until all records pertinent to the other FOIA requests have been attended to."

35. With further reference to the CIA's truthfulness and its record with respect to records related to the JFK assassination and its investigations, when I had it before this Court in the late 1970s and the Court gave due weight to its affidavits and I then appealed, on the very day its appeals brief was due the CIA disclosed what it had sworn to this Court it had to withhold for the same reasons it alleges in this Hoch case. With disclosure it became apparent that what the CIA had withheld had, in fact, been entirely within the public domain, as I had attested, even without access to any copies but from personal knowledge of the subject matter. On remand its explanation to this Court was that once it disclosed to the Congress it was required to disclose to me. From that day until this very moment, despite many requests going back to 1975, it has not disclosed anything at all to me, not a single piece of paper, under those FOIA requests.

36. Dube attests to "an additional personal review of document 1648-452-C" based on which he provides what was withheld in two places on Page 2.

That information is bracketed in the copy he attaches. The information he had withheld and now discloses, too, had been disclosed officially long before he executed his affidavit of July 22, 1982. Dube still asserts the same claims to exemption to withhold all the other information that I attest in my prior affidavit had been disclosed before his affidavit was executed. His new attestation thus remains untruthful.

37. As I state at the outset, I rushed getting my earlier affidavit to Hoch's counsel on the chance he might be compelled to make immediate use of it. Since then I've had time to think about other official disclosures of Castro's knowledge of CIA plots to assassinate him, the title of the record in question. There is another one of early vintage of which, contemporaneously and since then, the CIA could not possibly have been unaware. It was reported by the Associated Press in September 1963 and since then received much major attention. The AP reporter, Daniel Harker, interviewed Castro at a social event at the Brazilian Embassy in Havana. He wrote that Castro had told him that United States leaders ought not consider themselves immune when the United States plots to assassinate other leaders like him. I do not recall seeing any CIA record conveying this information to the Warren Commission. The Commission printed a copy of that story from a New Orleans paper on the theory that Oswald might have seen that version of it. This well-known information is not mentioned in the CIA document in question that was, by its own description, to have been used as the basis for making a decision on what Castro could have known of plots to kill him.

38. To justify withholding of this document, the CIA attested that it is "predecisional." It also stated that the author is unknown. That is not easy to credit and it is inconsistent with the CIA's "predecisional" claim.

If "predecisional" the author would have to be known to explain it or to answer questions about it - and there are multitudinous questions about this one, particularly its many omissions of what the CIA knew very well - even the key names.

39. This is, in fact, what is known as a "blind" memo, from which all identification is withheld, not a "predecisional" record of any kind. I have examined thousands of pages of disclosed CIA records and they do include proper identifications (some of which may be redacted), such as author, addressee, components, etc.

40. From the date, style and content, as well as missing content, this appears rather to be a memorandum reporting what had been conveyed verbally, and from knowledge of what the CIA then did with regard to the Rockefeller Commission, I believe that the CIA knows quite well who the author is, his actual purposes and why he was the author. Earlier it disclosed another Rockefeller Commission record, again without authorship indicated on it.

41. Raymond Rocca, an experienced CIA officer of views some regarded as extreme, left the CIA amidst the Watergate scandals, along with James Jesus Angleton under whom he had served in Counter Intelligence. Rocca had been in a liaison role with the Warren Commission. He was called back by the CIA to assist it in responding to official inquiries. A week after the CIA received a series of questions from the Rockefeller Commission's general counsel, who had been a Warren Commission counsel, to which the memo in question is partially responsive, and two days before this memo was written, Rocca conversed with the Commission's general counsel for about two hours in response to those questions. The CIA would know and within Dube's operation would have records of this if it were the case, and if it were the case Dube and others in the CIA also would

have known that it is not predecisional before any attestation to its allegedly "predecisional" nature was executed and presented to this Court.

42. The CIA's dirty-tricksters are not the only CIA officials who had a real need to know what had been communicated to the Rockefeller Commission - and what was withheld from it. (I indicate some of the withheld, significant and officially disclosed information in my first affidavit.) The CIA's counsel, its liaison people, its verious Cuban desks and its higher executives all had a need to know. That other and better copies exist within CIA is indicated by the poor quality of the copy disclosed to Borosage, of which the copy belatedly provided to Hoch is a copy. All those with a need to know the information reported in this blind memo also would need to know who wrote it, for what reasons and under whose auspices.

43. Contrary to the "predecisional" claim, the Knoche affidavit lumps this memo in with all the others as CIA records "regarding plans or allegations related to the subject of assassinations of foreign leaders." (Paragraph 2) His description of it holds no suggestion that it was "predecisional." He describes it merely as a memo.

44. The Memorandum of Points and Authorities abandons the (b)(5) claim but persists in the (b)(1) and (3) claims - not on the basis of fact but on the basis of a "conclusion" of "typicality." (Page 5) It states that Dube "reviewed the document yet again," citing his Paragraph 6. It interprets his cited attestation to mean that "He concluded that the document consisted of information which is typically withholdable pursuant to Exemptions 1 and 3." The Memorandum continues, nothing omitted, "Thus, everyone who has reviewed this document - Ms Page, Mr. Knoche and Mr. Dube - agrees that it consists of the type of information (intelligence sources and methods) which properly

qualifies for exemption." This language is knowingly evasive, misleading and deceptive. Something is or is not entitled to exemption as properly classified. There is an enormous amount of once-classified information that has been disclosed, yet all of this disclosed information once was classified and all of it was and still is "typically withholdable," was and is the "type of information" which "qualifies" for exemption. Thus, all these CIA attestations, as interpreted by the CIA's own Memorandum, claim no more than that once upon a time in their belief the document in question had been classified properly. That is not relevant to whether or not they were properly classified at the time of withholding and at the times of the executions of all the CIA's attestations.

45. The newer CIA attestations skirt around this. They do not state that competent review as of the time of attestation establishes that the withheld information was still entitled to classification, or even that it had been at the time of Dube's July 22, 1982, affidavit. The reason for this avoidance and omission, and for the resort to the deceptive and misleading language I quote, is because prior and official disclosure long before Dube's first attestation eliminated the basis for any classification.

46. Moreover, even if this memorandum had not been disclosed to Borosage, all of its content still had been disclosed officially long before Dube's 1982 affidavit was executed.

47. Dube's own words in his newer attestation do not justify even the evasiveness attributed to them in the Memorandum. What he actually concluded, after a page of generalities of typical CIA FOIA boilerplating, is not in any way specifically related to the document in question. He states that "based on the fact (which is not a fact at all) that this document wholly

concerns named intelligence sources and specific intelligence methods (none of which is true) - information within three specific, enumerated categories of potentially classifiable data," he withheld it. (Emphasis added) His maximum claim now is only that the document in question is no more than "potentially classifiable," not properly classified.

48. But even this is not true, not as of September 10 when, after his "additional personal review," he signed his declaration, and not two years earlier, when he executed his affidavit. Once there had been official disclosure, the information was not even "potentially" classifiable.

49. As happened before, when the CIA is forced to defend itself, it refutes itself. Aside from the fact that the assassination of foreign leaders is not an "intelligence source" or an "intelligence method," and all the CIA affiants still claim it is both, Knoche himself disclosed that the subject matter is "plans or allegations related to the subject of assassination of foreign leaders." (Paragraph 2) He thus disclosed both the alleged intelligence source and the alleged intelligence method. Yet now, two years later, the CIA's affiants attest this is "typically withholdable" and "the type of information" which is classified by the CIA.

50. Based on personal experience, as an intelligence officer and extensively with the CIA and FBI in FOIA matters, and my subject-matter knowledge, partially reflected in my two affidavits, I believe it is beyond question that the CIA knew very well before it made false representations to this Court that it was stating what was not truthful; and that within Dube's own dirty-tricks component, which is the component of primary involvement in the CIA's assassination plots and official disclosures of them, it was well known that all of the information held in this document, before as well as

after redaction, had been disclosed officially. Without such knowledge it simply would be impossible for that component and the Agency itself to function.

51. The newer CIA submissions that I address herein are typical of my prior experiences with the CIA: once it is caught in untruthful representations, it just makes up convenient explanations it hopes and expects will be accepted by the courts in giving them due consideration and weight. These newer CIA attestations also are not truthful, are evasive, misrepresent and mislead, as I show in this and in my previous affidavit, which was executed before the CIA's current submissions were even drafted.

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 18th day of September 1984 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.
My commission expires July 1, 1986.

LILLIAN WEISBERG NOTARY PUBLIC FREDERICK CO., MD.

Lillian Weisberg
NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND